

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Crl.MC.No. 2448 of 2007()

CC.410/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II,
NEDUMANGAD

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PETITIONER: ACCUSED:

K. SURENDRAN,
ARAPPURA VEEDU, PARUTHIPPALLY VEEDU,
KUTTICAL, KULATHUMMAL VILLAGE.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.SHAJIN S.HAMEED

RESPONDENTS: COMPLAINANTS:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. BEEMA BEEVI, D/O. SHEREEFA BEEVI,
KUNNATHU SANEETH MANZIL, ARASUPARAMBU MURI,
NEDUMANGADU VILLAGE.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
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Crl.M.C. No.2448 Of 2007
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Dated this the 31st day of July, 2007

ORDER

The petitioner faces indictment in a prosecution for the offences punishable under Section 420 IPC. Cognizance has been taken on the basis of a private complaint filed by the 2nd respondent/complainant. Earlier the very same allegations are enquired into by the Police and refer report has already been filed. It is thereafter the present complaint has been filed and cognizance has been taken by the learned Magistrate.

2. The crux of the allegations raised by the complainant is that the accused had made fraudulent misrepresentations to induce the complainant to believe the words of the accused and part with an amount of Rs.1,50,000/- on the promise that the job shall be secured for her.

3. The learned Magistrate, after following the procedure prescribed by law, has now taken cognizance. By no stretch of imagination can it be held that the allegations do not constitute any

offence at all. There is an allegation of mala fides. The contention is that the husband of the complainant has a financial transaction with the petitioner/accused and in such transaction the husband is liable to pay amounts to the petitioner and to avoid such liability the present complaint has been filed with oblique motives. The learned counsel for the petitioner in these circumstances prays that powers under Section 482 Cr.P.C. may be invoked and the complaint may be quashed.

4. It is admitted that the petitioner has already entered appearance before the learned Magistrate, Having considered all the relevant inputs, I am of the opinion that there are no circumstances available at the moment which would justify the invocation of extraordinary inherent jurisdiction under Section 482 Cr.P.C. This is eminently a fit case where the petitioner must raise his claim for discharge or acquittal at the appropriate stage before the learned Magistrate. The mere fact that there is a possibility to discharge/acquittal will not justify or persuade this Court to invoke the powers under Section 482 Cr.P.C.

5. This petition is in these circumstances dismissed with the observation that the petitioner shall be entitled to claim discharge at the stage of Sec.245(1)/245(2) Cr.P.C. The dismissal of this petition will not fetter the right of the petitioner to claim such discharge/acquittal.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE